

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

Crl.Rev.Pet.No. 427 of 2005(C)

CRA.7/2001 of ADDL. SESSIONS COURT-I, TRIVANDRUM
CC.319/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL
.....

REVN. PETITIONER/APPELLANT/ACCUSED:

M.S.SANALKUMAR,
FOOTWEAR CENTRE, ARYANAD P.O.,
ARYANAD JUNCTION, TRIVANDRUM.

BY ADV. SRI.K.SATHEESH KUMAR
SRI.T.A.UNNIKRISHNAN
SMT.RESHMI POULOSE

RESPONDENTS/ RESPONDENT/COMPLAINANT:

1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.
2. T.I.BEENY,
MAJESTIC FOOTWEAR, K.M.COMPLEX,
NEAR MUNICIPAL BUS STAND, ATTINGAL.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI
SRI.M.R.RAJESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 23/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.R.UDAYABHANU,J

=====

CRL.R.P.No.427 OF 2005

=====

Dated this the 23rd day of February,2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to undergo simple imprisonment for one month and to pay an amount of Rs.1,09,357 as compensation to the complainant under Section 357(3) Cr.P.C and in default to undergo simple imprisonment for three months. The contention of the revision petitioner is that the offence under Section 417 I.P.C is unsustainable as the complaint has been filed alleging offences under Sections 138 and 420 I.P.C.

2. On a consideration the judgment of the courts below which is concurrent. I find that the findings are well supported by the evidence adduced, especially the documents produced. The reasonings satisfy the ingredients of Section 417 I.P.C. There is no illegality in convicting for the offence under Section 417 I.P.C as the same is a lesser offence than the one under Section 420 I.P.C. There is no scope at all for interference in the findings of the court below.

3. All the same, considering the plea of the counsel for the revision petitioner the sentence is modified to imprisonment till the rising of the court. The latter part of the sentence is retained and affirmed. The revision petitioner is granted two months time from today onwards to pay the compensation. He shall appear before the Judicial First Class Magistrate-I, Attingal on 24.04.2007 to receive sentence.

The revision petition is disposed of accordingly.

K.R.UDAYABHANU,JUDGE

dvs